

**United States Department of Labor
Employees' Compensation Appeals Board**

AUSTIN J. CROCKETT, Appellant

and

**U.S. POSTAL SERVICE, CENTRAL POINT
POST OFFICE, Cols, OH, Employer**

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**Docket No. 04-238
Issued: June 1, 2004**

Appearances:
Austin J. Crockett, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chairman
COLLEEN DUFFY KIKO, Member
DAVID S. GERSON, Alternate Member

JURISDICTION

On November 5, 2003 appellant filed a timely appeal of the Office of Workers' Compensation Programs' merit decision dated October 8, 2003. Under 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this emotional condition case.

ISSUE

The issue is whether appellant has established that he sustained an emotional condition as a result of a May 14, 2003 employment incident.

FACTUAL HISTORY

On August 17, 2003 appellant, a 33-year-old letter carrier, filed an occupational disease claim alleging his stress was employment related. In an attached statement dated August 2, 2003, appellant attributed his stress to an incident which occurred on May 14, 2003 involving several customers while he was delivering mail. Appellant related that he refused to deliver mail to a house due to a problem with their dog and the inhabitants became angry. The situation escalated to the point that the son of the inhabitant charged at appellant, and he responded by

spraying the son with dog repellent. The uncle then got a tire iron out of his trunk and threatened to use it on appellant. Appellant used the dog repellent on the uncle who threw the tire iron towards appellant, but hit his nephew. The tire iron punctured the nephew's lung and appellant saw it hanging from the back of the nephew. Appellant alleged that this "whole ordeal was very stressful for me after the fact."

By letter dated August 22, 2003, the Office informed appellant that the information received was insufficient to support his claim. The Office advised appellant regarding the type of medical and factual evidence required to support his claim.

Appellant submitted a September 15, 2003 report regarding a bee sting and a duty status report by Dr. Nicola S. Ashton, an attending physician.

By decision dated October 8, 2003, the Office denied the claim on the grounds that fact of injury was not established. The Office found that appellant had not established that a medical condition resulted from the May 14, 2003 incident. The Office noted that appellant failed to submit a detailed medical record from his physician supporting a diagnosis of a medical condition and relating that condition to the accepted employment incident. The only medical evidence submitted by appellant pertained to an insect bite on an unrelated date.

LEGAL PRECEDENT

To establish appellant's claim that he has sustained an emotional condition in the performance of duty appellant must submit the following: (1) medical evidence establishing that he has an emotional or psychiatric disorder; (2) factual evidence identifying an employment factor or incident alleged to have caused or contributed to his condition; and (3) rationalized medical opinion evidence establishing that the identified compensable employment factor is causally related to his emotional condition.¹ Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factor.² The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factor identified by the claimant.³

¹ *Marlon Vera*, 54 ECAB ____ (Docket No. 03-907, issued September 29, 2003); *Donna Faye Cardwell*, 41 ECAB 730, 741-42 (1990).

² *Conard Hightower*, 54 ECAB ____ (Docket No. 02-1568, issued September 9, 2003).

³ *Jamel A. White*, 54 ECAB ____ (Docket No. 02-1559, issued December 10, 2002).

ANALYSIS

In the instant case, the Office properly developed this claim as a traumatic injury rather than an occupational disease claim.⁴ The Office correctly accepted that the May 14, 2003 incident occurred as alleged. However, the record is devoid of any medical evidence relating a condition to the May 14, 2003 incident. The September 15, 2003 report by Dr. Ashton detailing appellant's treatment for a bee sting does not mention any emotional condition nor does it even reference the May 14, 2003 incident alleged by appellant. The record contains no medical evidence diagnosing a condition causally related to the May 14, 2003 incident. As appellant has not submitted the necessary medical evidence to establish that he has an emotional condition, he has failed to meet his burden of proof to establish an injury.

CONCLUSION

The Board finds that appellant has not met his burden of proof in establishing that he developed an emotional condition due to the May 14, 2003 incident.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated October 8, 2003 is affirmed.

Issued: June 1, 2004
Washington, DC

Alec J. Koromilas
Chairman

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

⁴ A traumatic injury means a condition caused by an incident or incidents occurring within a single workday or shift; occupational disease or illness is a condition produced by the work environment over a period longer than a single workday. See 20 C.F.R. §§ 10.5(q) and (ee).